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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**
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7
8 UNITED STATES OF AMERICA,

9 Plaintiff(s),

10 v.

11 ANEAL V. MAHARAJ,

12 Defendant(s).
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2:05-CR-364 JCM (VCF)

15 **ORDER**

16 Presently before the court is the matter of *The United States of America v. Maharaj*, case no.
17 2:05-cr-00364-JCM-VCF. The United States has filed a motion to dismiss the third-party claims of
18 Teresa Mason and Maebel Semegne (doc. # 149). The third-party claimants have not responded, and
19 the deadline to do so has expired.

20 “To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted
21 as true, to ‘state a claim for relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 129 S. Ct. 1937,
22 1949 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “Where a
23 complaint pleads facts that are ‘merely consistent’ with a defendant’s liability, it ‘stops short of the
24 line between possibility and plausibility of entitlement to relief.’” *Id.* (citing *Bell Atlantic*, 550 U.S.
25 at 557). However, where there are well pled factual allegations, the court should assume their
26 veracity and determine if they give rise to relief. *Id.* at 1950.

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1 Pursuant to Local Rule 7-2(d), an opposing party's failure to file a timely response to any
2 motion constitutes the party's consent to the granting of the motion and is proper grounds for
3 dismissal. *U.S. v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). However, prior to dismissal, the
4 district court is required to weigh several factors: "(1) the public's interest in expeditious resolution
5 of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4)
6 the public policy favoring disposition of cases of their merits; and (5) the availability of less drastic
7 sanctions." *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (citing *Henderson v. Duncan*, 779 F.2d
8 1421, 1423 (9th Cir. 1986)).

9 In light of the third-party claimants' failure to respond, and weighing the factors identified
10 in *Ghazali*, the court finds dismissal appropriate.

11 Accordingly,

12 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that the United States' motion
13 to dismiss (doc. # 149) be, and the same hereby is, GRANTED.

14 DATED November 25, 2013.

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17 **UNITED STATES DISTRICT JUDGE**